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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Larry R Baker

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EXAMINER

CHRISTIANSEN, JANIE MEREDITH

ART UNIT

PAPER NUMBER

3751

NOTIFICATION DATE

DELIVERY MODE

01/06/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pto-sl@huschblackwell.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/526,942	<b>Applicant(s)</b> BAKER ET AL.	
	<b>Examiner</b> JANIE CHRISTIANSEN	<b>Art Unit</b> 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/23/2010</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

This action is responsive to communication filed 3/22/2010. The current pending claims are 1 – 12, 14 – 19, and 21 – 38.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 3 - 5, 7, 9, 12, 16, 17, 21, 24, 26, 28 – 34 and 36 are rejected under 35 U.S.C. 103(a)** as being unpatentable over US Patent 6,311,339 (hereinafter Kraus) in view of US Patent 6,904,621 (hereinafter Otto) and US Patent 5,926,858 (hereinafter Heller).

3. Regarding claims 1, 4, 5, 7, 12, 14, 21, 26, and 29, Kraus shows a urinary collection system (fig. 1). There is a urinal (20) with a first liquid storage reservoir (58) sized in volume to receive and store at least an amount of urine encountered in at least one patient relief (fig. 2). The urinal (20) has an end wall (60) and a bottom wall formed at the base of an indented well portion (64) and an inlet opening formed by the continuous lip (50) (fig. 2). The continuous lip (50) forms a seal for a vacuum pressure to serve as a retainer for selectively fixing the urinal in position relative to the user (col. 1, lines 48 - 49). The urinal optionally includes an external male catheter (140) having an outlet tube (150) in fluid communication with the urinal (148) (figs. 10, 11).

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4. There is a first conduit (26) that extends into the urinal to form a pick-up device having an inlet portion (66) positioned in the well portion (64) and an 'outlet portion' formed at the exit of the conduit from the urinal (62) that is positioned normally above the inlet portion (fig. 5) since it changes from substantially horizontally directed to substantially vertically inclined. The end of the conduit forms a siphon tube that is positioned in the reservoir adjacent the end wall and substantially normal to the outlet portion (fig. 5) to form a fluid flow path between the reservoir and the outlet portion.

5. There is a collection container (30) having a second liquid storage reservoir (fig. 7). The collection container has a top wall (32), an inlet connector (28) and an outlet connector (36) (fig. 7). The inlet connector has an end portion that terminates close to the top wall and is also directed downward to prevent liquid entering the second reservoir from entering the container outlet (fig. 7). The first conduit (26) connects the first and second reservoirs (fig. 1) and is connected to the collection container inlet connector (28). The collection container has a closable opening with a removable lid (34) (fig. 7).

6. There is a pump device having a pump with an inlet and outlet (40) and a drive device in the form of an electric fan (col. 3, lines 14 - 16). The pump device has a housing with a first end cap and second end cap formed by the end walls (note fig. 1). Kraus shows a second conduit (38) connecting the second storage reservoir to the pump inlet (fig. 1). The pump applies a reduced pressure to the conduits, the pickup device, and the second reservoir to induce flow of fluid from the first reservoir into the second reservoir (col. 1, lines 44 – 65).

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7. There is a control device (18) operably associated with the pump device and operable by a user of urinal (either with or without the external male catheter) for remotely selectively activating and deactivating the drive device (col. 3, lines 50 – 54)

8. Kraus shows the siphon tube of the pickup device is integral with the conduit and fails to show a separate siphon tube having a quick disconnect fitting. Attention is turned to Otto which shows a separate pick-up device in the form of a siphon tube made of a rigid material (col. 5, lines 30 – 31). An inlet portion exists at the bottom opening of the tube, and an outlet portion exists at the opposite end at the quick disconnect section (38) (col. 5, lines 19 – 21). Otto teaches that using a quick disconnect fitting allows for different receptacles to be changed easily (col. 5, lines 22 – 23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the siphon portion of the conduit of Kraus separated from the rest of the conduit to allow for ease of changing the receptacle and cleaning as evidenced by the teachings of Otto mentioned above.

9. Kraus fails to show the conduit is sealably mounted to the end wall of the urinal. Attention is turned to Heller which shows that it is desirable to provide a seal between a urinal and a conduit to prevent undesirable escape of urine and odors (col. 3, lines 11 - 12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the pickup device of Kraus sealably mounted to the end wall of the urinal to prevent the escape of urine between the connection as evidenced by the teachings of Heller mentioned above. A further incentive for making the conduit sealably mounted to the end wall is to ensure a better vacuum is created for removal of

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urine which would fulfill one of Kraus's primary goals of providing a vacuum to remove urine (col. 1, lines 49 - 51).

10. Regarding claims 3, 28, and 36, Kraus fails to show the control device includes a timer operable after a predetermined time to deactivate the drive device. Attention is turned to Otto which teaches that a timer in the form of a delay relay may be used in urinary transfer systems so that the pump may continue to run once deactivated by a user for a predetermined time period to ensure that any remaining urine in the reservoir be pumped from the first storage reservoir (col. 7, lines 23 - 28). Therefore, although the switch to deactivate the pump would be triggered, the pump would not be deactivated until the time delay ran for a predetermined time which would then trigger the pump to deactivate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Kraus to include a timer for deactivating the pump in order to pump all the urine out of the first storage reservoir.

11. Regarding claim 9, Kraus fails to show the urinal has a separate handle. Attention is turned to Heller which shows using a handle on a first storage reservoir in a urinal system (fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a handle on the urinal of Kraus to allow for easier positioning and retaining of the urinal when in use.

12. Regarding claim 16, Kraus fails to show the retainer includes a hold down including a generally U-shaped member forming a channel for receiving the urinal and a hold down member connected to the U-shaped member and projecting outwardly

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and adapted to be placed under a user's leg. Heller teaches using a retainer with a U-shape for receiving a portable urinal with winged projections to be placed under a user's legs to stabilize the reservoir during use (abstract, figs. 1 and 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Kraus to include a retainer such as that taught by Heller in order to more accurately secure the device when being used. Providing hold backs for a user's legs will ensure that the apparatus of Kraus lies in the appropriate position for receiving urine, and would therefore be an improvement on the device of Kraus. Furthermore, not having to rely on the handle for maintaining the position of the device would free up one of the user's hands.

13. Regarding claims 24 32 and 33, the method for collecting urine would have been obvious to one having ordinary skill in the art at the time the invention was made under normal operation of the modified device of Kraus as set forth above in pp. 3 - 12.

14. **Claims 2, 27, and 35 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Kraus, Otto, and Heller as applied to claims 1, 5, 7, 9, 12, 17, 21, 24, 26, 29, and 32 above, and further in view of US Patent 3,337,992 (hereinafter Tolson).

15. Regarding claims 2, 27, and 35, the combination of Kraus, Otto, and Heller show all in the instant invention as claimed as set forth above in pp. 3 - 12, including Kraus showing a remote control device, but fails to show the control device has a wireless transmitter and a receiver. Attention is turned to Tolson which teaches that it is known in the art that any suitable energy path is acceptable for controlling devices, including wire paths and radio signals, as long as a suitable transmitter and receiver are used.

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Therefore, absent any unforeseen benefit, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the control device of Kraus to use a wireless transmitter and receiver.

16. Regarding claim 25, the method of collecting urine would have been obvious to one having ordinary skill in the art at the time the invention was made under normal operation of the modified device of Kraus as set forth above in pp. 15.

17. **Claims 6, 10, and 11 are rejected under 35 U.S.C. 103(a)** as being unpatentable over Kraus, Otto, and Heller as applied to claims 1, 5, 7, 9, 12, 17, 21, 24, 26, 29, and 32 above, and further in view of US Patent 5,551,097 (hereinafter Short).

18. Regarding claim 6, the combination of Kraus, Otto, and Heller show all in the instant invention as claimed as set forth above in pp. 3 - 12, but Kraus fails to show the collection container includes a sensor that provides input as to when the collection container requires emptying. Short teaches that a float switch may be used to measure the level of waste in a waste tank for a portable urinal and to send a signal when the volume within the tank reaches a certain level (col. 3, lines 32 - 34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the collection container of Kraus to include a sensor that provides input as to when the collection container requires emptying as taught by Short. This would be particularly beneficial in the instance where the container is made of an opaque material so that the user may know when to empty the tank since it would not be visible from the outside.



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19. Regarding claims 10 – 11, the combination of Kraus, Otto, and Heller shows all in the instant invention as set forth above in pp. 3 – 12, but Kraus fails to show the urinal has a closable lid with a plurality of vent holes. Short teaches using a vented cap for sealing a urinary receptacle (col. 3, lines 47 – 52, fig. 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a vented cap on the urinal of Kraus to provide a sanitary cover for the device when not in use to prevent leakage of any urine that may be left in the device after use.

Furthermore, including a plurality of openings would have been obvious to one having ordinary skill in the art to ensure proper ventilation of the apparatus of Kraus and is considered a design choice because as long as one hole exists, the apparatus will achieve some level of ventilation to perform the desired function.

20. **Claim 8 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Kraus, Otto, and Heller as applied to claims 1, 5, 7, 9, 12, 17, 21, 24, 26, 29, and 32 above, and further in view of US Patent Application Publication 2004/0128749 (hereinafter Scott).

21. Regarding claim 8, the combination of Kraus, Otto, and Heller shows all in the instant invention as set forth above in pp. 3 – 12, but Kraus fails to show a handle on the collection container. Attention is turned to Scott which shows using a handle for carrying a urine collection container (fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a handle on the collection container of Kraus to allow for easier emptying of the container through the provision of a sturdy handle to grip.

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22. **Claim 15 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Kraus, Otto, and Heller as applied to claims 1, 5, 7, 9, 12, 17, 21, 24, 26, 29, and 32 above, and further in view of US Patent 6,565,546 (hereinafter Hurst).

23. Regarding claim 15, the combination of Kraus, Otto, and Heller shows all in the instant invention as set forth above in pp. 3 – 12, but Kraus fails to show the retainer includes a weight and a strip of hook and loop fasteners. Attention is turned to Hurst which shows that when using a urinary transfer device, it is desirable to include a hook and loop fastener to attach a urine reservoir to the body of the user (col. 3, lines 59 – 61, fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention made to modify the apparatus of Hadley to include a hook and loop fastener strip to secure the first reservoir to the leg of a user to ensure a proper position while in use. It should be noted that the hook and loop fastener strips are considered to have a 'weight' in the sense that adding the strips to the apparatus would provide additional weight to the apparatus.

24. **Claim 18 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Kraus, Otto, and Heller as applied to claims 1, 5, 7, 9, 12, 17, 21, 24, 26, 29, and 32 above, and further in view of US Patent 3,973,479 (hereinafter Whiteley).

25. Regarding claim 18, the combination of Kraus, Otto, and Heller shows all in the instant invention as set forth above in pp. 3 – 12, but Kraus fails to show the housing is cylindrical and is supported by a plurality of arcuate feet. Attention is turned to Whiteley which shows a pump having a cylindrical housing and supported by a plurality of arcuate feet (fig. 1). It would have been obvious to one having ordinary skill in the art

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at the time the invention was made to select any suitable shape for the pump housing of Kraus. Whether a rectangular box or cylinder on arcuate feet is used is considered a design choice and fails to patentably distinguish over the prior art.

26. **Claim 19 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Kraus, Otto, and Heller as applied to claims 1, 5, 7, 9, 12, 17, 21, 24, 26, 29, and 32 above, and further in view of US Patent 4,631,061 (hereinafter Martin) and US Patent 6,161,228 (hereinafter Wietecha).

27. Regarding claim 19, the combination of Kraus, Otto, and Heller shows all in the instant invention as set forth above in pp. 3 – 12, but Kraus fails to show a light indicator which illuminates when the pump device is activated. Attention is turned to Wietecha which shows using a lighted indicator to show when a pump has been activated (col. 16, lines 28 – 32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a lighted indicator to show when the pump was activated in the device of Kraus to provide a visual indication that the pump is on which would notify hearing impaired users which might not realize the pump was running.

28. Kraus fails to show a power overload protector. Attention is turned to Martin which shows using a ground fault as a fuse to break the circuit if too much current enters the pump device (col. 4, lines 24 - 26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include an indicator and power overload protector for the reasons set forth above in the teachings of Martin.

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29. **Claim 22 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Kraus, Otto, and Heller as applied to claims 1, 5, 7, 9, 12, 17, 21, 24, 26, 29, and 32 above, and further in view of US Patent 4,656,675 (hereinafter Fajnsztajn).

30. Regarding claim 22, the combination of Kraus, Otto, and Heller shows all in the instant invention as set forth above in pp. 3 – 12, including Kraus shows an external male catheter integrally formed with the urinal device but fails to show an attachment device for securing the outlet tube of the external male catheter to the urinal. Attention is turned to Fajnsztajn which shows using an external male catheter with an attachment device (5) to provide fluid communication between the catheter and a reservoir. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a fluid flow connection between the outlet tube and urinal in any desirable form. Whether the tube is integrally formed with the urinal or provided as two separate pieces which would require an additional attachment device fails to patentably distinguish over the prior art since either connection would result in flow communication between the two devices.

31. **Claim 23 is rejected** under 35 U.S.C. 103(a) as being unpatentable over Hadley in view of Fajnsztajn and Tolson.

32. Regarding claim 23, Hadley shows a receptacle (3) with an outlet tube (2). Fig. 4 shows a collection container having a liquid storage reservoir (1) with the outlet tube of the receptacle connecting the liquid storage reservoir of the collection container in flow communication with the outlet tube (fig. 4). There is a pump (9) and a drive device (10) operable to drive the pump, and the pump has an inlet and outlet (note fig. 4). There is

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a conduit (14) connecting the liquid storage reservoir of the collection container to the pump inlet. The pump is a vacuum pump designed to apply a reduced pressure to the outlet tube of the receptacle, the conduit, and the liquid storage reservoir of the collection container to induce flow of fluid from the receptacle into the liquid storage reservoir of the collection container (note col. 2, lines 34 – 37) (fig. 4). A control device (11) is associated with the pump device and operable by a user of the receptacle for selectively activating and deactivating the drive device (note col. 3, lines 53 – 55) (fig. 4).

33. Hadley fails to show an external male catheter with an outlet tube. Fajnsztajn teaches that an external male catheter provides a safe, sanitary device for receiving urine from a male that prevents spillage of urine (abstract, fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Hadley to include the male catheter of Fajnsztajn in order to provide sanitary, secure means for receiving urine specifically from a male user to help prevent any spillage of urine.

34. Hadley fails to show the control device operable remotely. The control device of Hadley is a hard-wired switch connected to the drive device. Tolson teaches that it is known in the art that any suitable energy path is acceptable for controlling devices, including wire paths and radio signals, as long as a suitable transmitter and receiver are used. Therefore, absent any unforeseen benefit, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the control device of Hadley to use a wireless transmitter and receiver. Having a wireless control

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device would improve the apparatus of Hadley by allowing the user to activate the pump in the instance where the pump is remotely located in relation to the user such as when the user is bedridden.

35. **Claims 30 - 31 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Hadley in view of Fajnsztajn, Tolson, and Otto.

36. Regarding claims 30 and 31, the combination of Hadley in view of Tolson and Fajnsztajn as set forth above in pp. 32 – 34 show all in the instant invention, but, Hadley fails to show means for automatically deactivating the drive device after a predetermined period of time has lapsed after activation, where the means include a timer circuit associated with the control device. Otto teaches that a timer in the form of a delay relay may be used in urinary transfer systems so that the pump may continue to run once deactivated, which is considered a period of time after activation, by a user for a predetermined time period to ensure that any remaining urine in the reservoir be pumped from the first storage reservoir (col. 7, lines 23 - 28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Hadley to include a timer for deactivating the pump in order to pump all the urine out of the first storage reservoir.

37. **Claim 37 rejected under 35 U.S.C. 103(a)** as being unpatentable over Kraus, Otto, Heller, and Short as applied to claims 6, 10, and 11 above, and further in view of Martin.

38. Regarding claim 37, the combination of Kraus, Otto, Heller, and Short shows all in the instant invention as claimed as set forth above in pp. 18, but Kraus fails to show

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the sensor functions to prevent operation of the drive device when the collection container is full. Attention is turned to Martin which shows a sensor that prevents a pump from running when the fluid level in the tank is at or above 90% capacity (col. 4, lines 53 – 58). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a sensor that stopss the pump from running when the container is full to prevent overflow into the storage container.

39. **Claim 38 is rejected under 35 U.S.C. 103(a)** as being unpatentable over Kraus, Otto, Heller, Martin, and Short as applied to claim 37 above, and further in view of US Patent 7,100,601 (hereinafter Bruna).

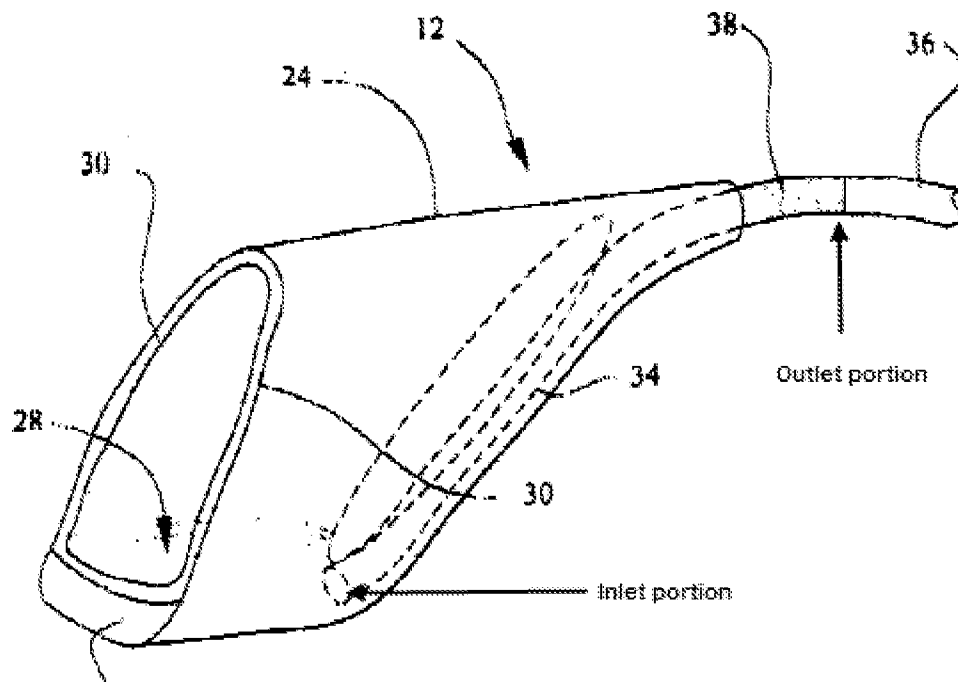
40. Regarding claim 38, the combination of Kraus, Heller, Martin, and Short show all in the instant invention as claimed as set forth above in pp. 38, but Kraus fails to show the sensor functions to prevent operation of the drive device when the collection container is out of its normal upright position. Attention is turned to Bruna which shows a position sensor that prevents a pump from being actuated until a specific position is attained for the device. Bruna teaches that having a position sensor activates a signal to alert the user that the position is incorrect. (col. 4, lines 14 – 22). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a position sensor in the collection container of Kraus to send a signal to notify the user that the container is not in the proper position as evidenced by the teachings of Bruna mentioned above.

### ***Response to Arguments***

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41. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

42. Applicant's arguments filed 3/22/2010 have been fully considered but they are not persuasive. Regarding Applicant's argument that the Otto siphon tube does not have an inlet and outlet portion, the Examiner respectfully disagrees. The inlet portion of the siphon tube is located at the opening at the bottom of the tube (note fig. below) and the outlet portion is located at the quick disconnect fitting (note fig. below).



43. Applicant's argument that the Otto device does not show a street ell as part of the pickup device is not commensurate in scope with the claims which do not recite such a limitation.

44. Regarding Applicant's argument that the Otto siphon tube is not substantially normal to the outlet, the Examiner respectfully disagrees. The conduit (36) is



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substantially horizontal, and the siphon tube (34) is substantially vertical which results in a substantially normal configuration.

45. Regarding Applicant's argument that if including wireless features was known in the art, it would have been done already, the Examiner respectfully disagrees.

Replacing a wired connection with a wireless connection, regardless of the specific application, is well known in the art as being functionally equivalent, and the specific application does not merit patentability since the device would function equivalently with either wired or wireless communication.

46. Regarding Applicant's argument that the time delay relay does not deactivate the pump, the Examiner respectfully disagrees. The time delay does in fact extend the length of time the pump is running, but by a predetermined amount which then allows the pump to deactivate. Therefore, although the switch to deactivate the pump would be triggered, the pump would not be deactivated until the time delay ran for a predetermined time which would then trigger the pump to deactivate.

47. Regarding Applicant's argument that the invention is not related to a power overload per se, the Examiner provided reason for including such a device in the apparatus of Kraus as set forth in the rejection above in pp. 28.

48. Regarding Applicant's argument that modifying the Hadley device with a male external catheter would prevent the device from functioning properly, the Examiner respectfully disagrees. One of ordinary skill would connect the two devices in such a manner as to allow both male and female users to use the device of Hadley; the external male catheter would provide a seal around a male penis to create a vacuum,

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and therefore would be connected to the urinal in such a manner as to ensure the vacuum remained when in use.

### ***Conclusion***

49. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JANIE CHRISTIANSEN whose telephone number is (571)270-5208. The examiner can normally be reached on M-F 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JC/

December 30, 2010

/GREGORY HUSON/  
Supervisory Patent Examiner, Art Unit 3751